

## DIGNITY, RESPECT (BULLYING, HARASSMENT AND DISCRIMINATION) & GRIEVANCE POLICY

|                                                             |                                                                                                                                                                        |
|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>POLICY REFERENCE NUMBER:</b>                             | HR2                                                                                                                                                                    |
| <b>VERSION NUMBER:</b>                                      | 1.2                                                                                                                                                                    |
| <b>KEY CHANGES FROM PREVIOUS VERSION:</b>                   | Further 6 month extension (F&P May 21)                                                                                                                                 |
| <b>AUTHOR:</b>                                              | HR Business Partner                                                                                                                                                    |
| <b>CONSULTATION GROUPS:</b>                                 | HR Policy Group, Joint Partnership Committee, Workforce Transformation Committee                                                                                       |
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| <b>RATIFICATION BY FINANCE &amp; PERFORMANCE COMMITTEE:</b> | October 2017                                                                                                                                                           |
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### POLICY SUMMARY

The policy sets out the framework for managers, staff and accredited Trade union Representatives the Trust's approach to the management of grievances, bullying and harassment as well as the scope of the policy to whom it applies.

It confirms the expectation to ensuring that unfair discrimination, harassment, bullying and victimisation does not occur at work by describing the duties and responsibilities of the whole workforce.

**The Trust monitors the implementation of and compliance with this policy in the following ways;**

This policy will be subject to review as per the agreed review schedule of Trust HR policies and as agreed by the Trust's Partnership Committee.

Compliance with this policy will be against the Trust's agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements, as well as the use of internal reporting and recording within the Workforce Directorate.

| Services   | Applicable | Comments |
|------------|------------|----------|
| Trust wide | ✓          |          |

**The Director responsible for monitoring and reviewing this policy is  
Executive Director of People & Culture**

**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**DIGNITY, RESPECT & GRIEVANCE POLICY**

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**ESSEX PARTNERSHIP UNIVERSITY NHS FOUNDATION TRUST**

**DIGNITY, RESPECT & GRIEVANCE POLICY**

**1. ASSURANCE STATEMENT**

- 1.1 The Trust supports the rights and opportunities of all people to seek, obtain and hold employment without discrimination. The purpose of this policy is to ensure that all employee grievances in relation to their employment are resolved in a timely, fair, reasonable and consistent way. This policy ensures that the Trust complies with the ACAS Code of Practice 1 – Disciplinary and Grievance Procedures.
- 1.2 This policy sets out the types of behaviour which are unacceptable to the Trust in discharging its moral, organisational and legal responsibilities for ensuring that unfair discrimination, harassment, bullying and victimisation does not occur at work. It seeks to minimise the risks to individuals and the Trust and uphold the legal rights of its employees under the relevant legislation.
- 1.3 The Trust is also committed to the creation of an environment, which extends to all its activities, where the differences between individuals (such as sex, race, ethnic origin, nationality, disability, age, religion, sexual orientation or personal characteristics) are accepted and the benefits of diversity are valued. Everyone employed by the Trust is encouraged to understand and support this philosophy in carrying out their day to day duties.
- 1.4 Grievances raised within the Trust will be built on and demonstrate the Trust's corporate values and behaviours. These values are in being:
- Compassionate
  - Empowering
  - Open
- In demonstrating these behaviours and values, supporting the achievement of its strategic priorities to:
- Continuously improve service user experiences and outcomes
  - Achieve top 25% performance
  - Valued system leader focused on integrated solutions
- 1.5 This policy should be read in conjunction with the Grievance Procedure and the Dignity & Respect at work Procedure.

## 2. INTRODUCTION

- 2.1 This policy introduces the Trust's principles in relation to resolving grievances at work, including dignity at work complaints such as bullying and harassment as per the NHS Terms and Conditions of Service Handbook (section 32.2). The Trust will maintain this policy and associated procedures in order to ensure that employees are able to raise any genuine matter of concern about their working relationships and all other grievance issues without fear of detriment.
- 2.2 This policy does not form part of the contract of employment.
- 2.3 The Trust recognises that there are times when employees have concerns regarding their working relationships during the course of their employment and, if these are not satisfactorily resolved at the earliest opportunity, they may soon develop into a grievance.
- 2.4 The Trust is committed to developing work processes (e.g. regular supervisory meetings) and ensuring effective communication between employees and line managers in order to help prevent employee concerns developing into formal grievances.
- 2.5 It is the Trust's intention to ensure that a variety of avenues are open to all employees to seek advice and support when they feel they have been subjected to inappropriate behaviour by another employee. A list of external organisations is supplied at **Appendix 1** to this Policy.
- 2.6 The Conduct and Capability Policy and Procedure may also be invoked if:
- the behaviour of an employee causes the Trust to be brought into disrepute by the actions of an employee
  - an employee is found to have engaged in malicious or inappropriate claims, incitement, victimisation or collusion
  - where incidences of alleged inappropriate behaviour are apparently so serious that it is likely that the matter may result in disciplinary action being taken if the allegation was well-founded.
  - However, employees who raise a grievance in good faith will not be subject to disciplinary action.
- 2.7 All new employees will be made aware of the Policy and related Procedures during their Induction to the Trust. Training will be provided in accordance with the Induction and Mandatory Training policy.

### **3. DUTIES**

#### **3.1 Executive Directors/Service and Operational Directors**

It is the Directors' corporate responsibility to ensure that unfair discrimination, harassment, bullying and victimisation does not occur at work and to ensure that managers have responsibility to take immediate and appropriate action if any form of these inappropriate behaviours does take place.

#### **3.2 Managers and Supervisors**

Managers and Supervisors have particular responsibilities to create a positive and effective working environment in which everyone is treated with dignity and respect. This includes challenging inappropriate behaviours whether they are raised formally or not. It is crucially important that these employees do not behave in unacceptable or offensive ways themselves.

It is the manager's responsibility to ensure that unfair discrimination, harassment, bullying and victimisation does not occur at work. It is their responsibility to take immediate and appropriate action if any form of these inappropriate behaviours does take place.

Managers must ensure that no staff are discriminated or disadvantaged as a result of a 'protected characteristic' when applying this policy. Managers should liaise with HR to ensure the Trust is not open to claims of discrimination as a result of a change management process.

Managers will also ensure that staff are aware of their rights to be accompanied by a trade union representative or workplace colleague at formal meetings to discuss the organisational change; and have in place access to other appropriate support as necessary such as through the Trust's Employee Assistance Programme.

Managers will have responsibility for ensuring staff receive the training and development necessary to meet new skill requirements and where appropriate to identify new career opportunities, with the time and support to attend training and development activities given.

#### **3.3 Nominated Officers** (nominated manager handling the Grievance/Respect and Dignity at Work concern)

Nominated officers are responsible for ensuring that grievances are handled thoroughly and dealt with in a timely manner.

#### **3.4 Staff**

All employees have individual responsibility and accountability to ensure that the dignity of everyone is maintained.

### 3.5 Human Resources (HR)

The HR Service will provide advice and support to managers and staff on all aspects of the Policy, with due regard to the employment legislation framework. It is HR's responsibility to ensure that the Policy is applied fairly, equitably and consistently throughout the Trust.

### 3.6 Trade Unions

The employee may be accompanied during these processes. The right to be accompanied is set out in section 10 of the Employment Relations Act 1999.

- There is no duty on a fellow Trust worker or an accredited representative if they chose not to be a representative.
- The accredited representative has a right to address the meeting/hearing and consult with the employee (in private if necessary) but no right to answer questions on the employee's behalf.
- Employees may not be accompanied by a companion whose presence would prejudice the hearing or who might have a conflict of interest. A conflict of interest may occur where the proposed accredited representative is a fellow witness to the events subject to investigation.
- The accredited representative will not be penalised for supporting an employee through the associated Procedure.

Accredited Trade Unions are expected to support their members at formal meetings and, where possible, to be flexible with dates to support the Trust in meeting the timescales outlined in this Policy and related Procedures. The Trust will liaise with Trade Union Representatives regarding availability to attend meetings.

|           |              |
|-----------|--------------|
| <b>4.</b> | <b>SCOPE</b> |
|-----------|--------------|

4.1 The policy applies to staff directly employed by the Trust.

4.2 A collective grievance is one that directly affects more than one member of staff and may invoke more than one section/service area or more than one Trade Union. Where this is the case, the matter would normally be pursued by a representative or representatives of that group. This representative will Act on behalf of the group during all processes of the Policy and associated Procedures. Other members of the collective grievance may be called as witnesses during the process to establish the full facts. As with an individual grievance, informal resolution of collective issues is encouraged.

4.3 All Trust employees have the right to invoke the Grievance/Respect and Dignity at Work Procedure in relation to matters pertaining to them.

4.4 All Trust employees should be made fully aware as to whom they should raise their complaint with.

- 4.5 A complaint can only be considered if it is within the responsibility and/or control of the Trust, for example statutory requirements are not the responsibility of the Trust or within its control.
- 4.6 This policy covers grievances relating to inappropriate behaviour by and/or towards all groups of staff and individual employees. The policy will usually only be applicable for actions and incidents arising from problems in the workplace, unless the behaviour is of such a nature outside work that it clearly shows a connection with the Trust, and also a detrimental effect on a member of staff.
- 4.7 Harassment, bullying and victimisation do not include the appropriate exercising of supervisory responsibilities regarding, for example, job performance, conduct, attendance and other issues relating to the proper running of the business.
- 4.8 The Grievance Policy and Procedure may not apply when alternative policies cover the issue, these include:
- Policy on Whistleblowing (Raising concerns) e.g. public concern about health care matters/services provided by the Trust.
  - The Recognition Agreement e.g. collective disputes.
- 4.9 This policy does not cover issues of patient behaviour towards the employees of the Trust which is covered by Criminal Behaviour within a Mental Health Environment (Zero Tolerance) Policy.
- 4.10 Any complaints received from ex-employees will be dealt with appropriately.

## 5. DEFINITIONS

For the purposes of applying the provisions contained in this document a glossary of terms that are used within the policy are as follows:

|                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
|-------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Grievance</b>  | A grievance is defined in law as “a complaint by an employee about action which his employer has taken or is contemplating taking in relation to him”. For the purposes of this Policy and Procedure, a grievance is a complaint by an employee regarding a matter connected with their terms and conditions of employment, Trust policies and procedures or working arrangements that affect them directly or affect their personal dealings or relationships with other employees or workers including allegations of harassment and bullying. It is anticipated that this will be interpreted widely rather than narrowly and further explanation of the types of complaints covered by this policy are detailed below. |
| <b>Harassment</b> | Harassment is the violation of dignity or creation of an offensive environment directed at one person or many people: an unwanted behaviour, which a person finds intimidating, upsetting, embarrassing or humiliating. Harassment is largely subjective; the                                                                                                                                                                                                                                                                                                                                                                                                                                                              |

|                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                         |
|------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                    | individual will decide on whether they feel conduct is either acceptable or offensive i.e. it is not the intention of the perpetrator that is key in deciding whether harassment has occurred. Harassment may take the form of a single act <u>or</u> a series of acts over a period of time                                                                                                                                                                                                                                                                            |
| <b>Bullying</b>                    | Bullying is similar to harassment in terms of it being a violation of dignity, often bullying is described as a form of harassment. However, Bullying is usually a series of acts over a period of time i.e. Bullying is persistent behaviour, directed against an individual, which is offensive, intimidating, malicious or insulting, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient. Bullying is largely identified not by what has actually been done but rather by the effect it has on its target |
| <b>Victimisation</b>               | Victimisation occurs when an individual is treated less favourably or is subject to detriment because he or she has or is going to, or is believed to have or be going to, in good faith, brought proceedings under the Equality Act 2010; given evidence or information in connection with proceedings under the Act; done anything for the purposes of or in connection with the Act; or made any allegations that another person had contravened the Act.                                                                                                            |
| <b>Sexual harassment</b>           | Sexual harassment is a form of sex discrimination. It may be unlawful behaviour contrary to the Equality Act 2010. It is also improper and inappropriate behaviour which lowers morale, and is likely to have an adverse effect on a person's job performance, health and personal life.                                                                                                                                                                                                                                                                                |
| <b>Racial harassment</b>           | Racial harassment can range from physical attack to unwanted conduct of a more subtle nature, making people feel uneasy and creating discomfort or exclusion. The Equality Act 2010 states that a person discriminates against another if, on racial grounds, they treat that other person less favourably than they treat or would treat other persons. This is irrespective of the intention of the other person/party.                                                                                                                                               |
| <b>Disability Discrimination</b>   | Under the Equality Act 2010, harassment of a disabled person for a reason related to their disability may constitute unlawful discrimination under the Act.                                                                                                                                                                                                                                                                                                                                                                                                             |
| <b>Harassment by a Third Party</b> | Harassment of staff by people that the Trust does not employ.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |

Further examples of behaviour that may constitute bullying, harassment or victimisation are outlined in **Appendix 1 of the Respect and Dignity at Work Procedure.**



**6. PRINCIPLES**

6.1 The Trust is committed to developing an inclusive working environment where employees, other Trust workers, service users, carers, partnership organisations, and other stakeholders, are valued for themselves and the contributions they make. The Trust will not tolerate unfair discrimination, harassment, bullying, victimisation or any other inappropriate behaviour in the workplace, nor the incitement of, or colluding with, others which results in inappropriate behaviour (see section 5.0 for definitions).

6.2 All Trust employees must support an inclusive working environment and are required to co-operate with this policy and its application.

6.3 The Trust will adhere to the appropriate legislation and other frameworks such as Agenda for Change, local agreements and ACAS code of practice. ACAS is the Advisory, Conciliation and Arbitration Service.

6.4 The Trust seeks to promote fair, reasonable and consistent employment practices referring to relevant policies such as the Equality, Diversity and Human Rights Policy.

In drawing up this policy, aspects of discrimination have been considered so that particular groups are not disadvantaged.

6.5 The Grievance Procedure should be used whenever an employee wishes to redress a perceived grievance, including incidences of inappropriate behaviour with the exception of bullying, harassment and discrimination complaints whereby the Respect and Dignity at Work Procedure should be utilised.

6.6 The Trust is committed to working in partnership with accredited Trade Union representatives to ensure effective resolutions and outcomes for employees raising a grievance.

6.7 In relation to bullying, harassment and discrimination the overall aims of the policy are to:

- Build upon desired behaviours of integrity, honesty, respect and inclusive team working
- Prevent and eradicate all forms of inappropriate behaviour towards others at work
- Ensure that all employees are aware of the types of behaviour that are likely to be construed as inappropriate
- Provide employees with a clear understanding of their rights and responsibilities in dealing with or responding to inappropriate behaviour at work
- Set out the procedures for dealing with and monitoring instances of inappropriate behaviour.

6.8 The Trust will endeavour to resolve all grievances informally. All complaints, whether informal or formal, will be taken seriously.

- 6.9 The Trust accepts the responsibility of its officers to take action once the organisation has been made aware of a situation
- 6.10 The Trust will aim to ensure that all grievances are comprehensively dealt with, through to conclusion. In all cases, grievances will be thoroughly and sensitively handled.
- 6.11 Grievances should be dealt with promptly and as near as possible to their point of origin, with minimal disruption to the delivery and quality of service provision. Problems/complaints will normally be discussed first between an employee and their line manager.
- 6.12 The absence of witnesses to alleged acts of harassment, bullying or discrimination will not prevent the complaint being acted upon.
- 6.13 The Trust will take all necessary and reasonable steps to safeguard an employee who makes a complaint, the alleged perpetrator and any witnesses, from victimisation.
- 6.14 During the investigation process, the alleged perpetrator will be accorded the same considerations as the employee who has lodged the complaint.
- 6.15 Employees have the right to be accompanied at any formal meetings/hearings, by an accredited representative of a Trade Union representative or a fellow Trust worker. A list of external support organisations is supplied at **Appendix 1** to this Policy.
- 6.16 The Trust will aim to maintain effective communication and consultation at each level of the applicable Procedure, to ensure its effective implementation.
- 6.17 At each stage, as set out in the applicable Procedure, all decisions will be made on a timely, fair, reasonable and consistent basis.
- 6.18 A written record will be maintained at all stages in the procedure so that any challenges can refer to the documentation at the time. This information will be held in accordance with the requirements of the General Data Protection Regulation (2016) as laid out in the Trust's Employee Privacy Notice.
- 6.19 Where the Grievance Procedure has been invoked, and all stages have been exhausted, the individual will not be able to raise the same issues in a separate grievance.
- 6.20 The Trust will not normally allow a situation where another matter cannot be investigated due to a grievance or counter grievance being raised. The Trust will deal with each matter in turn. For example:
- Raising a complaint will not impact on an ongoing disciplinary process, unless the grievance raised is directly relevant to the investigation.
  - Raising a counter grievance will not impact on an ongoing grievance

process. Each grievance will be dealt with in turn.

- 6.21 Information shared during the implementation of this policy and related procedures will be provided on a need to know basis and all employees are responsible for maintaining the confidentiality of this information.

## **7. MONITORING OF IMPLEMENTATION AND GOVERNANCE**

- 7.1 The Director of Corporate Governance and Strategy is responsible for ensuring there is a system in place to monitor, record and report on outcomes from organisational change programmes that are implemented within the Trust.
- 7.3 This policy is subject to review as per the Trust HR policy review schedule and as agreed by the Trust's Partnership Committee.
- 7.4 Compliance with this policy will be against the Trust's agreed minimum requirements /standards as detailed within its Auditable Standards and Monitoring Arrangements
- 7.5 All grievances will be monitored in accordance with the Equality, Diversity and Human Rights Policy.
- 7.6 The HR department will ensure implementation of the policy and procedure is monitored on a minimum of a 3 yearly basis.
- 7.7 The Employee Services Team will provide a report, to the Equality and Diversity Steering Group, on the number and nature of the complaints annually. The Steering Group will then comment on the extent and nature of inappropriate behaviour in the workplace and identify any preventative action that needs to be taken in the organisation and make recommendations to the Board on this.
- 7.8 The impact of the policy and training will be evaluated in terms of their effectiveness in dealing with harassment in the workplace through the results of the annual Staff Survey. The Staff Survey Action Plan will demonstrate any real changes that take place in the Trust.
- 7.9 **Training**
- 7.9.1 In order to demonstrate the values of the Trust, all staff will follow an induction programme and will undertake additional training which will include the Bullying and Harassment e learning programme and the Equality and Diversity e learning programme. The aim of this training is to ensure that staff understand their responsibilities regarding their conduct with others whilst at work. This guidance below should be read in conjunction with the Mandatory Training Policy.

7.9.2 Staff training needs have been identified as part of a trust wide training needs analysis as follows:

| CORE PRACTICE           | UPDATE INTERVAL | STAFF CATEGORY | DELIVERY METHOD |
|-------------------------|-----------------|----------------|-----------------|
| Harassment and Bullying | One Off         | All Staff      | E-Learning      |
| Customer Service        | Three Yearly    | All Staff      | E-Learning      |

7.9.3 The Workforce Development and Training Department will report monthly on compliance levels for mandatory training for the Executive Team, Workforce and Business Support Service Board and Health, Safety and Security Committees.

7.9.4 Monthly GAP reports will be sent to Directors and operational managers by the Information Department identifying which of their staff are up-to-date, when they are approaching update deadlines and those that are out of date.

7.9.5 A service manager will be able to check which training has been undertaken by a member of staff through:

- Reviewing monthly GAP report
- Or by requesting the individual's training transcript from the Information Department.

7.9.6 Staff who are booked onto mandatory/core practice training and are, for whatever reason, unable to attend, MUST inform their relevant Director of their reasons.

7.9.7 Staff who do not attend a Mandatory or Core Practice course will receive notification from the Information Department informing them of their non-attendance. Managers will receive a copy of this. Non-attendance will be recorded in the GAP report that managers receive monthly, from this information non-attendees will be automatically re-booked onto another course by the Information Department. If an individual fails to attend on the second occasion, the service Director will be notified.

**8. POLICY REFERENCES /ASSOCIATED DOCUMENTATION**

- General Data Protection Regulations (2016/679EU)
- Employment Rights Act 1996
- Equality Act 2010
- Equal Pay Act 1970
- Human Rights Act 1998
- The Employment Equality (Repeal of Retirement Age Provisions) Regulations 2011

**9. REFERENCE TO OTHER TRUST POLICIES/PROCEDURES**

This policy should be read in conjunction with other policies in place that may be relevant. These include:

- Grievance Procedure
- Respect & Dignity at Work Procedure
- Disciplinary Policy and Procedure
- Capability Policy and Procedure
- Supervision Policy
- Criminal Behaviour within a Mental Health Environment (Zero Tolerance) Policy
- Equality, Diversity and Human Rights Policy
- Whistleblowing (Raising Concerns) Policy

**END**